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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/090,719

03/04/2002

Thomas M. Shea

STM-17402/01

4808

7590

07/28/2005

Douglas J. McEvoy
 Gifford, Krass, Groh, Sprinkle,
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EXAMINER

WUJCIAK, ALFRED J

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,719

Applicant(s)

SHEA, THOMAS M.

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8,11,13-15 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,11,13,14 and 19-26 is/are rejected.
- 7) ☒ Claim(s) 8 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the third Office Action for the serial number 10/090,719, AISLE WAY END EXTENDER BRACKET FOR USE WITH A VERTICALLY EXTENDING MERCHANDISING SUPPORT SURFACE, filed on 3/4/02.

Claim Objections

Claim 11 is objected to because of the following informalities: Claim 11, line 2, "support arm 44" should be changed to ---support arm--- for clarification. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11 and 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21, line 7, claim 22, line 9, claim 24, line 11 "the lengthwise extending display wall" cites combination/subcombination problem because it is not positively cited in the preamble of independent claim 21.

Claim 22, lines 7-8, claim 23, line 9, claim 11, "the vertically extending end cap" cites combination/subcombination problem because it is not positively cited in the preamble of independent claim 22.

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Claim 24, lines 10-11, "the merchandising display" cites combination/subcombination problem because it is not positively cited in the preamble of claim 24.

Claim 11 is rejected as depending on rejected claim 22.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 13, 19, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 6,202,866 to Shea.

Shea teaches a bracket (92) comprising a elongate extending support arm having a first support end and a second extending/product display end. The support arm further comprises a planar and elongated shape. The product display end comprises an "S" hook (58) suspended through an aperture defined within the support arm and a product support portion (78) being suspended by the "S" hook. The bracket includes a foot support (94). The bracket comprises a vertically extending end cap (12) having plurality spaced apart slots (14). The first end support end comprises a channel (30) defined in the planar base surface (22) and a fastener stem (36) is inserted therein and connected to a nut (34).

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 6,199,706 to Shea.

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Shea teaches the bracket (10) comprising an elongate extending support arm (16 and 18) having a first support end and a second extending and display end. The bracket is supported by the lengthwise extending display wall (12) having a pegboard display surface. The first support end comprising a planar support surface (26) having a first plurality of inwardly and successively upward angled tabs (30) extending from an upper edge of the support surface and a second plurality of inwardly extending tabs (32) extending from a corresponding lower edge of the support surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of US Patent # 6,199,706 to Shea.

Shea teaches the support arm having a specified shape and size but fails to teach the arm is constructed of a durable metal material. Shea '706 teaches the arm is constructed of a durable metal material (col. 4, line 23). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Shea's support arm with metal material as taught by Shea' 706 to provide additional strength in the arm for supporting a heaving load of display item.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea ('866) in view of US Patent # 5,657,884 to Zilincar, III.

Shea teaches the display support (68) extending from the support arm but fails to teach the display support having an advertisement display placard. Zilincar, III teaches the display support (32) having an advertisement display placard (34). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added advertisement display placard to Shea's display support as taught by Zilincar, III to provide information for item when being supported by display support.

Claims 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea ('866) in view of US Patent # 6,349,909 to Zarrow et al.

Shea teaches a bracket (92) comprising an elongate extending support arm having a first support end and a second extending/product display end. The support arm further comprises a planar and elongated shape. The product display end comprises an "S" hook (58) suspended through an aperture defined within the support arm and a product support portion (78) being suspended by the "S" hook. The bracket includes a foot support (94).

Shea teaches the foot support and support arm but fails to teach the support arm is being axially adjustable relative to the foot support. Zarrow et al. teaches support arm (2) is being axially adjustable relative to the foot support (1). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Shea's connection between the foot support and support arm with axially adjustable as taught by Zarrow et al. to provide convenience for changing direction of support arm to provide better location for advertising.

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Claims 11, 23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea ('866).

Shea teaches a bracket (92) comprising an elongate extending support arm having a first support end and a second extending/product display end. The support arm further comprises a planar and elongated shape. The product display end comprises an "S" hook (58) suspended through an aperture defined within the support arm and a product support portion (78) being suspended by the "S" hook. The bracket includes a foot support (94). Furthermore, Shea teaches a bolt (32) having shaft (36) extending through aperture (30) of the first support end of the elongate extending arm and rectangular shaped nut (34) connected to the shaft end of the bolt. The shaft is inserted in the vertical extending slot (14) defined in the vertically extending end cap support.

Shea teaches aperture, bolt and nut but fails to teach plurality of aperture, bolt and nut. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional aperture, bolt and nut to provide additional support for supporting heavy load between the elongate extending arm and the vertical extending end cap support. In regards to claim 25, Shea teaches the nut but fails to teach the nut is a wing nut. Figures 13-14 in Shea's invention which is a different embodiment shows nut is a wing nut. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have replaced the rectangular nut with a wing nut to provide designer's preference for kind of nut to tighten the fastener without the use of tool.

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In regards to claim 11, Shea teaches tab (94) extending from a rearward facing surface of the support arm but fails to teach tab is a peg. Figure 14 of Shea's invention, which is a different embodiment shows that the peg (126) extends outwardly of the support arm. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have replaced tab with peg to provide designer's preference for shape to mount in the vertically extending end cap support.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea ('706) in view of Shea ('866).

Shea ('706) teaches the bracket (10) comprising an elongate extending support arm (16 and 18) having a first support end and a second extending and display end. The bracket is supported by the lengthwise extending display wall (12) having a pegboard display surface. The first support end comprising a planar support surface (26) having a first plurality of inwardly and successively upward angled tabs (30) extending from an upper edge of the support surface and a second plurality of inwardly extending tabs (32) extending from a corresponding lower edge of the support surface.

Shea ('706) teaches the product display end but fails to teach the product display end comprises an "s" hook suspended through an aperture defined within the support arm. Shea ('866) teaches the product display end comprising an "s" hook (58) suspended through an aperture defined within the support arm. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added "s" hook to Shea ('706) as taught by Shea ('866) to provide additional storage for supporting additional display on the bracket.

Allowable Subject Matter

Claims 8 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach the bracket comprises a further bracket securing upon the planar support surface and defining an interior channel suitable for receiving the support arm therethrough, a rotatably tightenable screw extending within the bracket and engaging the support arm at a selected axially adjusted location.

Response to Arguments

Applicant's arguments with respect to claims 1-2,4-6,8,11,13-15,19-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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A handwritten signature in black ink, appearing to read 'A. Joseph Wujciak III', written over the printed name and unit.

7/22/05